

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA	:	
	:	
v.	:	Criminal No. DKC-01-0220
	:	
LEROY TONIC	:	

MEMORANDUM OPINION AND ORDER

Before the court are two motions filed by Defendant requesting a reduction of his sentence due to his deteriorating health. ECF Nos. 16 and 17.

By a judgment entered November 26, 2011, Defendant Leroy Milton Tonic was convicted, upon his guilty plea, of three counts of mailing threatening communications. The court sentenced Mr. Jenkins to 48 months imprisonment on each count to run concurrently to each other, but consecutively to the sentence he was already serving in case CT94-0574X. The sentence was not appealed.

Pursuant to 18 U.S.C. § 3582(c), a "court may not modify a term of imprisonment once it has been imposed" unless (1) a motion is filed by the Director of the Bureau of Prisons on certain grounds; (2) the "sentencing range" for the crime of conviction "has subsequently been lowered"; or (3) modification is permitted "by statute or by Rule 35 of the Federal Rules of Criminal Procedure[.]" As the Director of the Bureau of Prisons

has not petitioned the court for modification and the sentencing range applicable to Defendant's crime of conviction has not been subsequently lowered, the only provision that could potentially apply is Rule 35. That rule permits a defendant to petition the court, within fourteen days after sentencing, to "correct a sentence that resulted from arithmetical, technical, or other clear error." Fed.R.Crim.P. 35(a). Here, Mr. Tonic does not allege any error in his sentence and, even if he did, his motion would be untimely. The other grounds for relief under Rule 35 apply only where the government petitions the court for a sentence reduction, which has not occurred here. Thus, Mr. Tonic is ineligible for relief under 18 U.S.C. §3582(c).

In sum, this court is without authority to grant the relief requested by Defendant. Accordingly, it is this 5th day of December, 2014, by the United States District Court for the District of Maryland, ORDERED that:

1. Defendant's motions requesting a reduction of his sentence (ECF Nos. 16 and 17) BE, and the same hereby ARE, DENIED; and

2. The Clerk of Court is DIRECTED to transmit a copy of this Memorandum Opinion and Order to Defendant, Leroy Tonic.

/s/
DEBORAH K. CHASANOW
United States District Judge